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Human Rights Council
Twenty-sixth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Liberal International (World Liberal Union), a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Protection and Promotion of the Human Rights of Migrants

Liberal International (LI) welcomes the Report on labor exploitation of migrants by the UN Special Rapporteur for Human Rights of Migrants, His Excellency Francois Crepeau, as submitted to the 26th Session of the United Nations Human Rights Council. LI fully aligns with the report's conclusions that "coherent and comprehensive gender-sensitive national migration policies have to be established in a way that they address all stages of the migration process, are coordinated across government and are developed in widespread consultation with national human rights institutions, the private sector, employers' and workers' organizations, civil society and migrants themselves, and with the support of international organizations."

LI also welcomes the eight-point agenda for action and the subsequent declaration adopted by the UN member states at the latest High Level Dialogue on International Migration and Development and fully aligns itself with the recommendations reached.

The protection and promotion of minority rights' lies at the heart of Liberal International's human rights agenda and as such the rights of migrants have been a significant part of the organization's human rights policy deliberations.

This statement would like to pay particular attention to the failure of the international community to adopt a comprehensive framework on global migration governance and on the steps needed in order to achieve progress in this direction.

Recognizing that:

- According to the IOM the number of international migrants worldwide has reached 232 million with migration flows continuously prevailing and also increasing
- According to the latest data provided by the World Bank remittances from migrants are now nearly three times greater than the world's combined foreign aid
- Migration is of great importance for the development of both the place of origin and destination
- International migration and asylum policy is by nature cross-border
- The most vulnerable persons in migration flows are women and children posing greater risks for abuse of their human rights thus reiterating the need to incorporate a gender perspective into national migration policies
- The integration of migrants into the civil society of their new environment, including but not limited to providing adequate access to healthcare and education facilities as well as to the labor market, is often hindered by discrimination based on gender, ethnic origin, sexual orientation, political and/or religious beliefs
- In terms of international migrants, there is often hidden bureaucratic and indirect political suppression of asylum seekers, by denying asylum due to the impossibility of documented proof of religious practice or sexual orientation
- A lack of respect for the human rights of migrants in the place of destination reduces their ability to contribute to the respective economic development and growth of the destination
- The deprivation of the human right to development is one of the very causes of migration itself making the inclusion of the human rights of migrants into the post-2015 Development Agenda ever so evident
- Many European countries are facing demographic changes as a result of aging populations and thereby potential challenges such as labor shortages, thus increasing the need to open up more regular migration channels
- There is an ever-urgent need to address conflict driven migration in light of the on-going humanitarian disaster facing Syrian refugees and the tragedy of the conflicts in the Eastern Democratic Republic of the Congo and the Central African Republic among others
- There is an urgent need to address the core issues of economic and social-driven migration such as poverty, unemployment and the lack of a general prospect for a happy and fulfilling life

Expressing deep concern that:

- There are now 2.7 million registered Syrian refugees with at least $ 3.5 billion still needed in international humanitarian assistance, as stated by the UN Refugee Agency
- Strict visa requirements and heavy carrier sanctions have made the use of human traffickers and smugglers the only remaining resort for migrants to reach peaceful and democratic states, resulting in serious human tragedies

Stressing that:

- Migrants are entitled to fundamental human rights as guaranteed by the United Nations Universal Declaration of Human Rights

Commending on:

- The on-going efforts by liberals around the world to promote, protect and advance the rights of migrants such as:
    - The recent declaration on migration adopted by the Arab Alliance for Freedom and Democracy at a gathering for leaders of liberal political parties and organizations from Egypt, Jordan, Lebanon, Libya, Morocco, the Netherlands, Palestine, Tunisia, Sudan, and the United Kingdom. The declaration calls for an improved treatment of illegal immigrants according to international conventions and human rights charters as well as for an increased Arab-European cooperation in the sectors of education, trade and investment as a way of reducing economic and social-driven migration to Europe
    - The report on "Migrants, Refugees and the Fight Against AIDS" by Doris Fiala MP, Vice-Chairperson of the Alliance for Liberals and Democrats for Europe Group in the Parliamentary Assembly of the Council of Europe (CoE). The report was presented before the Committee on Migration, Refugees and Displaced Persons and it called on CoE member states to adopt human-rights based approach to fighting HIV/AIDS and to ensure that all migrants, including undocumented migrants, asylum seekers and refugees, have full access to affordable HIV treatment and care and to adapted prevention strategies.
    - The multi-stakeholder strategy plan looking into how governments, civil society organizations, and trade unions can work together in implementing the ASEAN Declaration on the Promotion and Protection of the Rights of Migrant Workers adopted by the Council of Asian Liberals and Democrats
    - The Alliance for Liberal and Democrats for Europe "EU 2020" Strategy which recommends a change in the EU's immigration policy in light of the decline in the percentage of the EU's working age population and calls for the use of the European Blue Card as an instrument to take an active stake in the global war for talent

Liberal International Recalls:

- Its Resolution on "Women, Population, Changing Demographics and Migration" adopted by the 176th LI Executive Committee in Manila, the Philippines which called for greater efforts to create jobs and sustainable means of life in developing countries so that citizens of such countries do not feel compelled to migrate
- Its Resolution on "Migration and Asylum Policy" adopted by the 178th LI Executive Committee in Cancun, Mexico which called for all countries to implement visa requirements that enable free and easy travel as a rule rather than an exception
- Its Resolution on "Migration and Integration" as adopted by the 57th LI Congress in Manila, the Philippines which called for more generous national migration systems, through which both skilled and unskilled workers are allowed to seek work as economic immigrants

Liberal International Calls On:

- All UN member states to actively implement the Declaration adopted at the latest High Level Dialogue on International Migration and Development, including in the discussions concerning the Post-2015 Development Agenda
- All UN member states to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- All UN member states to pay full respect to the Geneva Convention of 1951, guaranteeing the universal right to seek asylum and to refrain from any legislation or measures that may restrict the right to asylum or international human rights standards
- The United Nations to create a comprehensive global agency on migration in order to streamline the different institutional approaches and normative frameworks currently in place dealing with the issue
- Migration-destination countries to further enable migration for reasons other than asylum-seeking in order to foster an inclusive economic globalization and secure individual opportunities for everyone
- The international community to work together with political internationals in order to promote and advance sensible migration policies guaranteeing fair treatment before the law and effectively preventing human rights abuses towards migrants

Liberal International Commits:

- For liberal parliamentarians from around the world, whether in government or opposition, to continue to work towards a comprehensive framework on global migration governance in consultation with national and international human rights institutions, the civil society sector, and migrants themselves
- For its liberal member parties to continue to safeguard the rights of asylum seekers, especially those belonging to relatively suppressed societal groups due to their gender, ethnicity, sexual orientation and/or political and religious beliefs
- For its liberal member parties to work towards the development and implementation of clear migration integration strategies so that immigrants realize their full potential for their own benefit and the benefit of the hosting country
- To engage in extensive dialogue and to support the work of the UN Special Rapporteur for Human Rights of Migrants and all other relevant UN agencies and bodies which address the human rights of migrants

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Human Rights Council
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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status, the Lawyers' Rights Watch Canada, the Lawyers for Lawyers, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Wrongful Prosecution and Imprisonment of Lawyers in the Islamic Republic of Iran

Lawyers Rights Watch Canada (LRWC), Lawyers for Lawyers (L4L) and the Asian Legal Resource Centre (ALRC) call on the United Nations Human Rights Council to take action to stop the wrongful prosecution and imprisonment of lawyers in the Islamic Republic of Iran (Iran) and ensure remedies of release and reparation for victims of arbitrary detention.

As a member of the United Nations and a state party to the ICCPR,[1] Iran has legal obligations to ensure to all individuals within its territories and subject to its jurisdiction the rights and freedoms guaranteed by, *inter alia*, the ICCPR to equality (Article 7, 2, 10), liberty (Article 3), expression (Article 19), association and assembly (Article 20), as well as freedom from arbitrary detention (Article 9), remedies for violations (Art. 8) and the right to legal representation (Art. 14(3)). Discharge of these obligations entails ensuring the right to legal representation,[2] which the Human Rights Committee (HR Committee) has determined applies to both criminal and civil proceedings.[3] The state's specific duty to protect the personal and professional safety of lawyers is integral to compliance with duties to ensure rights, prevent violations and ensure access to remedies.

The United Nations *Basic Principles on the Role of Lawyers* (Basic Principles)[4] describe specific state duties widely accepted as necessary to ensuring rights to legal representation, by protecting lawyers from interference by state and other actors. State compliance with the *Basic Principles* is a fundamental pre-condition to independent legal representation, which is essential to ensuring equal and effective protection and enforcement of rights and access to remedies for violations.

Iran has failed both to fulfil these obligations and to cooperate with investigation and reporting that could lead to improved compliance. Requests by the Special Rapporteur on the Independence of Judges and Lawyers to visit Iran in 2006, 2008 and 2011 have been refused.[5]

In violation of the obligation to protect rights to legal representation and the rights of lawyers to engage in legal advocacy, Iran has, *inter alia*:

1. subjected lawyers to politically motivated prosecutions and to arbitrary detention for exercising protected freedoms of expression and association and for carrying out their legitimate legal work;

2. carried out reprisals against members of the Defenders of Human Rights Center (DHRC) for their peaceful human rights advocacy;

3. denied to imprisoned lawyers medical attention and access to legal representation; and

4. carried out reprisals against lawyers representing members of minority.

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[1] ICCPR was signed by Iran on 4 April 1968, ratified on 24 June 1975.

[2] Article 14(3)(d) of the ICCPR

[3] UN Human Rights Committee (HRC), *General comment no. 32, Article 14, Right to equality before courts and tribunals and to fair trial*, 23 August 2007, CCPR/C/GC/32, para. 10.

[4] Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

[5] 2006: Compilation prepared by the Office of the High Commissioner for Human Rights, C/HRC/WG.6/7/IRN/2, p.4; Office of the High Commissioner of Human Rights, *Country and other visits by Special Procedures Mandate Holders since 1998*.

Arbitrary Detention of Lawyers

Wrongfully prosecuted and detained Iranian lawyers include:

- Abdolfattah Soltani, arrested in 2009 and 2011 on charges of co-founding DHRC, endangering national security, and "illegally" accepting award moneys from the Nuremberg International Human Rights Award in 2009. He was sentenced to 18 years in prison which was reduced to 13 years on appeal in 2012;

- Afshin Karampour, Amir Eslami, Mustafa Daneshju, Omid Behrouzi, Farshid Yadollahi, arrested in 2011 and sentenced in 2013 to seven and a half years in prison for spreading propaganda against the state as the administrators of Majzoonban-e-Noor, a Dervish website, and some also as lawyers for Sufi/Dervish clients. Some refused to submit an appeal as a form of protest against unfair trial standards, including inadequate access to counsel. Afshin Karampour has been denied transfer to a medical facility. Amir Eslami and Farshid Yadollahi engaged in a hunger strike in 2012;

- Hassan Sarchahi, arrested in 2010 and sentenced to two years in prison. It is not known if he has been released;

- Javid Houtan Kian, arrested in 2010, questioned for "ties with foreign anti-revolutionary groups" and "the possession of false identity cards," and sentenced to six years in prison for giving an interview with foreign media about his client's situation (an Azeri woman who faces death by stoning). He was released in 2013;

- Kambiz Norouzi, arrested in 2009 for conspiracy against national security, spreading anti-government propaganda and disrupting public order and sentenced to one and a half years in prison. It is unclear whether he has been released;

- Mohammed Seyfzadeh, DHRC co-founder, who was arrested in 2010 for collusion and assembly with intent to disrupt internal security sentenced to two years in prison. He has reportedly not been released and may have been sentenced to an additional term of imprisonment on other charges;

- Mohammed Ali Dadkhah, arrested in 2011 for membership in an organization seeking to overthrow the government, spreading propaganda against the system by having interviews with foreign media and being a co-founder of DHRC. He was sentenced to nine years in prison which was affirmed on appeal in 2012;

- Nasrin Sotoudeh, arrested in 2010 for undermining national security, propaganda against the government and not wearing a hejab. She was sentenced to 11 years in prison which was reduced to six years on appeal in 2011. She engaged in a hunger strike in 2012 and was released in 2013;

- Hemid Valai, detained in 2008 and reportedly tortured while in custody. The charges are unclear. He had been engaged in representing Azerbaijani people. It is not known if he has been released

Denial of Medical Treatment While Imprisoned

Reports indicate that several lawyers in detention have been denied medical treatment. It is reported that Mustafa Daneshju was found unconscious in a prison shower, Mohammad Seifzadeh urgently requires treatment for serious heart disease, and Abdolfattah Soltani and Amir Eslami have health problems requiring treatment. Interpreting the ICCPR, the HR Committee has determined[6] that adequate and timely medical care must be provided to all detainees as

[6] Human Rights Committee, Concluding Observations: Georgia, (2002) UN Doc A/57/40 vol. I 53 para 78(7); Pinto v. Trinidad and Tobago (Communication No. 232/1987) Report of the Human Rights Committee vol. 2 UN Doc A/45/40 p. 69 para 12.7; Kelly v.

part of state duties to ensure the enjoyment by all persons of rights to life (ICCPR Article 6), freedom from torture and other cruel, inhuman or degrading treatment or punishment (ICCPR Article 7) and the right of prisoners to humane treatment (ICCPR Article 10). As stated by the HR Committee, "the State party [to the ICCPR] by arresting and detaining individuals takes the responsibility to care for their life."[7]

Reprisals Against Members of DHRC

In 2001, the DHRC was established by five prominent lawyers: Shirin Ebadi, Mohammad Ali Dadkhah, Mohammad Seifzadeh, Mohammad Sharif and Abdolfattah Soltani. The objectives of the DHRC are (i) defending those accused of political crimes and prisoners of conscience on a *pro bono* basis, (ii) publishing reports on human rights in Iran, (iii) facilitating a dialogue amongst intellectuals and activists, and (iv) providing human rights education.[8] Three of the founding members, Mohammad Ali Dadkhah, Mohammad Seifzadeh and Abdolfattah Soltani, have been imprisoned and banned from practicing law. Abdolfattah Soltani was subjected to abduction and prosecution for representing clients in politically sensitive cases, such as the journalist Akbar Ganji and the family of the Canadian photographer Zahra Kazemi. Mohammad Ali Dadkhah was banned from practicing law for defending a Christian pastor on death row for apostasy. Mohammad Seyfzadeh was banned from practicing law for writing critical letters and signing group statements.

Legal Representation of Minority Groups

In October 2013, the Special Rapporteur on the human rights situation in Iran reported that religious minorities have been increasingly subject to various forms of legislated discrimination, including in employment and education, and often face arbitrary detention and ill-treatment.[9] In this context, the ability of lawyers to defend their clients without hindrance or harassment is critical. Human rights organisations reported cases where lawyers were arrested and prosecuted apparently for representing members of a minority group.[10] These cases deserve further investigation by the Human Rights Council.

Independence of the Iranian Bar Association

In 2012, the Iranian Judiciary drafted a *Bill on Formal Attorneyship on the reorganisation of the Iranian Bar Association* (Bill). The Bill introduces supervision of lawyers by the state and thereby severely threatens the independence of the legal profession. The Bill has been met with serious concerns from Iranian lawyers and international organisations.[11] President Rouhani recently promised that the Bill will be re-evaluated; however, it has not been amended thus far.

The Bill introduces provisions that would contravene requirements set out in the Basic Principles.

Jamaica (2 April 1991) UN Doc CCPR/C/41/D/253/1987 para 5.7; Human Rights Committee 'Concluding Observations: Portugal' (2003) UN Doc A/58/40 vol. I 56 para 83(11); Human Rights Committee 'Concluding Observations: Cambodia' (1999) UN Doc A/54/40 vol. I 57 para 306; Human Rights Committee 'Concluding Observations: Congo' (2000) UN Doc A/55/40 vol. I 43 para 282; Human Rights Committee 'Concluding Observations: Mongolia' (2000) UN D Lantsova v. Russian Federation (26 March 2002) UN Doc CCPR/C/74/763/1997 para 9.2.oc A/55/40 vol. I 49 para 332; Human Rights Committee 'Concluding Observations: Syrian Arab Republic' (2001) UN Doc A/56/40 vol. I 70 para 81(13).

[7] Lantsova v. Russian Federation (26 March 2002) UN Doc CCPR/C/74/763/1997 para 9.2.

[8] Defenders of Human Rights Center, website

[9] Special Rapporteur on the human rights situation in the Islamic Republic of Iran, Report, 4 October 2013, A/68/503.

[10] Special Rapporteur on the human rights situation in the Islamic Republic of Iran Report (A/HRC/2256). September 2013, AI Report on Iran 2013, May 2013; HRW World Report 2014, Iran, January 2014.

[11] For example, the Special Rapporteur on the situation of human rights in Iran stated in his report to the UN Human Rights Council of February 2013 that he "continues to share the International Bar Association's concerns regarding the erosion of the independence of the legal profession and Bar Association in the Islamic Republic of Iran."

- The Bill creates a 'Supervisory Committee' of seven members elected by the Head of the Judiciary. The judiciary is under the purview of the Ministry of Justice and accordingly is not independent. The Bill grants the Committee ownership of the Bar Association's assets and authorizes the Committee to control the admission and examination of trainee lawyers and the awarding and revocation of licenses to practice law.[12] This provision would contravene the principle that lawyers must be free to form self-governing organisations, with an executive elected by its members and operating free from external interference.[13]

- The Bill would empower "competent bodies"—an undefined term—to suspend lawyers from practising.[14] The Basic Principles require that all disciplinary proceedings against lawyers be determined by an impartial disciplinary committee established by the legal profession, or an independent authority or court, and be subject to judicial review.[15]

- The Bill stipulates that a member of the Judiciary shall chair each branch of the Disciplinary Court for Attorneys and the Disciplinary Court of Appeal for Attorneys[16] and the Head of the Judiciary would be empowered to approve the appointment of the Disciplinary Prosecutor for Attorneys.[17] These measures would place the Bar Association under effective control of government authorities.

Conclusion

Abdolfattah Soltani, Afshin Karampour, Amir Eslami, Mustafa Daneshju, Omid Behrouzi, Farshid Yadollahi, Javid Houtan Kian, Mohammed Ali Dadkhah, Hemid Valai and Mohammed Seyfzadeh are believed to be still in prison. It is now known whether Hassan Sarchahi or Kambiz Norouzi has been released. LRWC, ALRC and L4L recommend that all be released immediately.

LRWC, L4L and the ALRC urge the Human Rights Council to call on Iran to:

1. Allow a visit and investigation by the Special Rapporteur on the Independence of Judges and Lawyers;
2. Ensure the release of any of the following lawyers still in prison: Abdolfattah Soltani, Afshin Karampour, Amir Eslami, Mustafa Daneshju, Omid Behrouzi, Farshid Yadollahi, Kambiz Norouzi, Mohammed Seyfzadeh, Mohammed Ali Dadkhah; Javid Houtan Kian, Hemid Valai, Hassan Sarchahi and Kambiz Norouzi.
3. Ensure the immediate release of all other lawyers currently imprisoned for discharging their professional duties;
4. Enable the DHRC to continue with its activities and to safeguard the personal and professional security freedom of all DHRC members;
5. Respect Iran's international law obligations to provide adequate medical treatment for detained lawyers and other prisoners;
6. Bring legislation and practice in Iran into conformity with Iran's international legal obligations under the UDHR and ICCPR to protect rights to equality before the law and equal access to the protection of the law, liberty, freedoms of expression and association, prisoners' rights to humane treatment and rights to receive and provide legal representation;
7. Amend the draft Bill on Formal Attorneyship in consultation with the Bar Association of Iran to: a) ensure that the independence of the bar is adequately protected; b) comply with the Basic Principles; and, c) comply with the duty under the ICCPR to ensure that all persons have access to independent lawyers in cases involving the determination of their rights.

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[12] Draft Bill on Formal Attorneyship, Article 122
[13] Basic Principles Article 24,
[14] Draft Bill on Formal Attorneyship Article 48
[15] Basic Principles, Article 28.
[16] Draft Bill on Formal Attorneyship Articles 90 and 93

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Human Rights Council
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Written statement* submitted by France Libertes: Fondation Danielle Mitterrand, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Large dams and violations of indigenous peoples' rights in the Brazilian Amazon: Access to Justice and Suspension of Legal Decisions (Suspensão de Segurança)*

On February 14, 2014, France Libertes: Fondation Danielle Mitterrand and partner organizations submitted a joint statement to the United Nations Human Rights Council concerning systematic violations of indigenous and tribal peoples' rights in the planning, licensing and construction of large hydroelectric dams in the Amazon region[1]. In this statement, it was argued that violations of human rights, including the right to Free, Prior and Informed Consultation and Consent (FPIC) have not only continued unabated, but intensified, together with their devastating human and environmental consequences, as exemplified by the Belo Monte Hydroelectric Complex on the Xingu River and the proposed construction of 24 large dams and over 80 small and medium hydroprojects in the neighboring Tapajos basin, in the heart of the Amazon basin.

As a complementary initiative to the joint statement, a side-event entitled "Indigenous peoples' right to consultation on large dam projects in Brazil" was held on March 10th, 2014 at the 25th United Nations Human Rights Council. The speakers at the event included the national coordinator of Brazil's national-level Articulation of Indigenous Peoples (APIB), Sônia Guajajara and Alexandre Andrade Sampaio, a Brazilian lawyer with the Interamerican Association for Environmental Defense (AIDA)[2].

Both the joint statement and presentations at the side-event focused on problems surrounding a legal artifice known as "Security Suspension" (*Suspensão de Segurança*) that allows chief justices, upon request from the federal government, to indefinitely suspend court decisions in favor of indigenous peoples' rights and requirements concerning compliance with environmental legislation, based on supposed threats to national security and the country's "social and economic order". Among the most egregious use of this legal artifice, originally created during Brazil's military dictatorship, is the suspension of court decisions on the illegality of large hydroelectric dam projects, such as Belo Monte and the Tapajós dams, where the federal government has failed to ensure indigenous peoples' right to prior consultations, as enshrined in the Brazilian constitution. According to current legislation, "security suspensions" remain in effect until the last possible phase of appeal (*transito em julgado*), allowing the continuation of dam construction and situations of a *fait accompli*, while gross violations of human rights and their tragic consequences are ignored.

In the joint statement and presentations at the March 2014 side-event, it was demonstrated that the "Security Suspension" constitutes an obstacle to Brazil's compliance with the International Covenant on Civil and Political Rights (ICCPR), especially articles 2.3 (right to effective recourse) and 14 (right to justice), as well as international agreements concerning the right to free, prior, and informed consultation and consent (FPIC), including Convention 169 of the International Labor Organization (ILO), ratified by the Brazilian Congress in 2002, and the 2007 UN Declaration on Rights of Indigenous Peoples (UNDRIP).

Moreover, the current use of the "*Suspensão de Segurança*" in cases such as the Belo Monte and Tapajós mega-dam projects in the Amazon, may be considered an emblematic case of violations of human rights to a safe, clean, healthy and sustainable environment (with special attention to the needs of populations that are especially vulnerable, including indigenous peoples) as outlined in the preliminary report by Independent Expert John H. Knox, discussed at the March 2014 meeting of the UNHRC.[3]

Complementing the above-mentioned joint statement submitted by France Libertes: Fondation Danielle Mitterrand and partner organizations in February 2014, the following information has subsequently become available that we respectfully submit for consideration by the Secretary General, Special Rapporteurs and the Independent Expert on the human rights-environmental nexus:

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[1] A/HRC/25/NGO/43, http://www.internationalrivers.org/files/attached-files/bresil_eng.pdf

[2] http://www.internationalrivers.org/node/8251

[3] http://www.ohchr.org/EN/NewsEvents/Pages/AhealthyandsustainableenvironmentneededtoprotecthumanrightS.aspx

1. On March 28th 2014, the Inter-American Commission on Human Rights (IACHR) held a special hearing in Washington, D.C. on the theme of *access to justice and suspension of legal decisions*, focusing on the use of the "Suspensão de Segurança", including case studies of the Tapajós dams and other mega-projects in Brazil. Speakers at the IACHR hearing included, among others, Mr. Josias Munduruku, indigenous leader from the Tapajós region and Célia Bernardes, a Federal judge speaking on behalf of the Brazilian Association of Judges for Democracy.[4] A written statement including an in-depth analysis of the "Suspensão de Segurança", with special attention to violations of the Inter-American Human Rights System, was presented by the following civil society organizations: Justiça Global, Justiça nos Trilhos, Sociedade Paraense de Defesa dos Direitos Humanos (SDDH), Associacion Inter-Americana de Defensa Ambiental (AIDA), International Rivers, Instituto Socioambiental (ISA) and Conselho Indigenista Missionário (CIMI).
   The statement is available at the following link: http://www.internationalrivers.org/files/attached-files/cidh_suspensao_seguranca_28mar2014.pdf

2. In April 2014, the National Council of Justice (CNJ) and the Federal Public Prosecutor's Office (Ministerio Publico Federal, MPF) organized an international seminar to evaluate experiences in implementation of ILO Convention 169 in Latin America.[5] The seminar included a presentation by Dr. Antônio Souza Prudente, Distinguished Professor of Environmental Law at the Catholic University of Brasilia and Federal Judge at a Regional Appeals Court (TRF-1). The presentation and accompanying text are entitled "*A Suspensão de Segurança como Instrumento Agressor aos Tratados e Convenções Internacionais sobre Direitos Humanos*" (Security Suspension as an Instrument of Aggression towards International Treaties and Conventions on Human Rights).
   The text is available at the following link: http://www.icjp.pt/sites/default/files/papers/palestra_-_evento_da_procuradoria_-_a_suspensao_de_seguranca_-_texto_jorge_miranda.pdf [6]

Given the above consideration, our organizations respectfully reiterate our appeal of March 2014 to the Special Rapporteur on Human Rights of Indigenous Peoples, the Special Rapporteur on the Promotion of Truth, Justice, Reparation, and Guarantees of Non-recurrence, the Special Rapporteur in the field of Cultural Rights, the Special Rapporteur on the Independence of Judges and Lawyers and the Independent Expert on Minority Issues:

- to investigate how the utilization of the "Security Suspension" (*Suspensão de Segurança*) by the Brazilian government and chief justices in lawsuits concerning large dams and other proposed mega-projects constitutes an impediment to compliance with international agreements concerning human rights, including the right to FPIC among indigenous peoples and other traditional populations, as determined by ILO Convention 169, the Inter-American Human Rights System and UNDRIP. With support from independent Brazilian and international experts, investigations should include field visits to interview affected communities, leaders of social movements, NGOs, federal public prosecutors (MPF) and other legal experts, including federal judges whose decisions have been systematically overturned, among others.
- to organize a special event to discuss this urgent issue, including conclusions and recommendations of investigations by special rapporteurs and experts, with participation of key parties (e.g. indigenous and tribal leaders, social movements, NGOs, MPF, AGU/PR, federal judges and independent legal experts).

We also respectfully request that the UNHRC coordinate with the Inter-American Commission on Human Rights (IACHR) and the International Labor Organization (ILO) in carrying out these activities.

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* International Rivers NGO(s) without consultative status, also share the views expressed in this statement.

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[4] http://www.internationalrivers.org/node/8278

[5] http://www.cnj.jus.br/evento/eventos-novos/seminario-internacional-10-anos-da-convencao-169-da-oit

[6] A video recording of the presentation by Dr. Souza Prudente at the international seminar may be viewed at the following link: https://www.youtube.com/watch?v=zeCerJ0sGTA The presentation begins at 5:16:50.

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Written statement* submitted by the Federation of Western Thrace Turks in Europe, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

The Electoral Threshold Problem in Political Representation of the Turkish Minority of Western Thrace

The Universal Declaration of Human Rights protects the right to everyone "to take part in the government of his country" and the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities states that "persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation".

The representation of ethnic minorities in political life is a strong indicator of the level of minority rights in modern democracies. Ethnic minorities can either have a right to self-government or they can participate in legislative institutions at both national and local level or take part in consultative bodies in order to take a key role in decision-making processes which are interest to them. Members of ethnic minorities can nominate through non-minority/majority parties or they form their own parties and achieve representation at the national and regional level.

It is very important that parties and legislation are inclusive and represent broader society including ethnic minorities. Electoral law or electoral system does have a great impact on the full and effective participation of persons, including persons belonging to national minorities. Only few states provide for specific rules on the representation of minorities in the elected bodies, but there are no established democracies that have adopted quota laws for ethnic minorities. Yet there have been efforts among political parties to widen their support and get their votes among ethnic communities and to recruit ethnic minority candidates in local and national elections.

The European Union has established protection of minorities as a pre-condition in the accession of candidate countries to the EU. This has provided the development of institutional rules in Eastern European countries throughout their accession process. The Turkish minority in Bulgaria and the Hungarian minority in Romania have established their own political parties despite different institutional frameworks. Romania has introduced special provisions to guarantee that they have a seat in the Romanian Parliament.

This pre-accession criteria regarding protection of minority rights are not applied in old EU members states. The Turkish minority in Western Thrace[1], Greece, is not adequately represented in national and regional level and in decision making processes. The electoral system referred as "reinforced proportionality" is a form of semi-proportional representation with a 3% of electoral threshold for political parties and independent candidates and an awarded extra 50 seats for the political party that wins a plurality of votes cast. Under the

[1] Turkish Minority of Western Thrace has an estimated population of 150.000, does comprise 1.3% of the general population (2001 census) and it constitutes majority in Rhodope (52%) and almost half of the population in Xanthi(45%). There is an officially recognized Muslim minority of 140.000 to 150.000 members reside in Thrace (Western Thrace) and the status of the Minority is determined by the Treaty of Lausanne in 1923. Although the Treaty of Lausanne does not specifically mention the ethnic identity of the Muslim minority in Western Thrace, there is a specific reference to the Turkish ethnic identity of the Muslim Minority in Western Thrace in legal and international documents. "Etabli Documents" which were the documents given to the people of Greek and Turkish origin who were left out of the exchange procedure in accordance with the provisions of the Agreement on the Exchange of Turkish and Greek Populations on 30 January 1923 mentioned the ethnic origin of Muslim minority in Western Thrace as Turkish.

current electoral system of reinforced proportionality, political parties and independent candidates cannot enter the Parliament unless they obtain at least 3 % of the votes throughout the country, although they may have enough votes to get electoral seats in specific electoral districts. This makes it almost impossible for members of the Turkish Minority of Western Thrace to be elected to the Parliament as independent candidate, therefore members of the Minority stand for elections from majority parties. In the last elections, three persons belonging to the Turkish Minority of Western Thrace were elected to the Greek Parliament. The deputies are Mr. Ahmet Hacıosman, PASOK MP for Rhodope; Mr. Ayhan Karayusuf, SYRIZA MP for Rhodope; Mr. Hüseyin Zeybek, SYRIZA MP for Xanthi.

The regional administration in Greece has gone an extensive reform process, of which second phase was implemented in 2010. The number of municipalities have been reduced to 325, and 54 prefectures have been merged into 13 administrative regions, i.e. peripheries. Each region acquired a directly elected governor (periferiarchis) and regional council roughly proportional to its population. Political parties are not permitted to contest local and regional elections and, therefore, the elections are contested by open regional lists headed by a candidate governor. In practice, however, most of these lists are openly created, supported or otherwise endorsed by political parties. In all local elections, the winning candidacy list is guaranteed a minimum three-fifths majority in the respective councils. In 2010, Greece held its first regional elections concurrently held with municipal elections. The elections for the regional governors and councils take place every five years under a two-round majority run-off electoral system where the winning list elects the governor. The regional elections with municipal elections in Greece will be held on 18 May 2014 (first round) and 25 May 2014 (second round). Following the first and second round municipal elections in Greece, three members of the Turkish minority in Arriana (Kozlukebir), Iasmos(Yassıköy) and Myki(Mustafçova) municipalities have been elected as mayor.[2] Unfortunately, there is no member of the Turkish minority whom has been nominated in the regional list as vice regional governor for regional units of Rhodope or Xanthi.

Events in Greece before the elections show that Western Thrace Turkish Minority is perceived and accepted as "the other" in Greece. New Democracy (NEA) Party Rodopi Deputy and former Minister of Education and Religious Affairs Evripidis Stilyanidis gave reportage to Greek daily Elefteros Typos on 27 April 2014. Stilyanidis' statements regarding the Western Thrace Turkish Minority received big reactions. According to Birlik, a daily of Western Thrace Turkish Minority, Stilyanidis affirmed the necessity to introduce new regulations to country's administrative structure on the grounds that the municipalities have been Islamized especially when the examples of Maroneia and Iasmos were taken into account. Further to this point, Stilyanidis suggested the municipalities in Western Thrace, which were predominantly run by the Western Thrace Turkish Minority, shall be redistributed to those which were run by Christians.

Starting in 2014, peripheral and municipal elections are to be held every five years, concurrently with elections for the European Parliament. At the second round of local elections in Greece, on 25 May 2014, European Parliament elections will be held in Greece. Greece comprises one national electoral district for the EP elections and the electoral threshold is 3%, while 14 EU countries do not apply any electoral threshold for the EP elections. 49 political parties are participated in the EP 2014 elections, and party lists are closed and blocked. For the first time in history minority political party Friendship, Equality,

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2 http://www.ekloges.ypes.gr/may2014/dn/public/index.html#{"page":"level","params":{"level":"snom_n","id":1}}

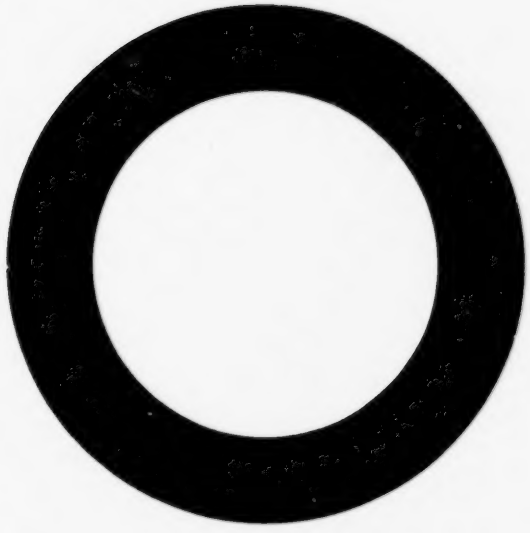
Peace (FEP) Party has run for the EP elections, with 38 candidates from Rhodope, Xanthi and Evros.

With the slogan 'Europe Europe Hear Our Voice', FEP Party participated in the EP elections in order to give the message "We are Here Aswell" to Athens and Europe. FEP Party announced that they participated in the elections to give the necessary message to the mindset which does not take into consideration the demands of the Turkish Minority of Western Thrace. Following the results of the EP elections in Greece, FEP Party has been the first party in Rhodope and Xanthi, where the Turkish Minority of Western Thrace lives. The minority party has won 41, 68% in Rhodope and 25, 89% in Xanthi. The party has been the third party and has received 42.533 votes with 12.25% share of the vote in Eastern Macedonia-Thrace Prefecture. Since the party has received 46.620 votes and won 0.76% of at the nationwide.[3] The results clearly indicate how the application of 3% threshold for individuals prevents the Turkish minority from electing their representatives freely.

ABTTF urges the Greek authorities to:

- abolish 3% electoral threshold quota for political parties and independent candidates on national elections,
- introduce special provisions to guarantee that the Turkish Minority of Western Thrace is represented in the Greek Parliament,
- abolish 3% electoral threshold quota national elections on EP elections,
- ensure that the Turkish Minority of Western Thrace participates in legislative institutions at regional, local and national level or takes part in consultative bodies in order to take a key role in decision-making processes which are interest to them.

[3] For FEP Party's elections results
http://www.ekloges.ypes.gr/may2014/e/public/index.html#{"cls":"party","params":{"id":73}}



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Human Rights Council
Twenty-sixth session
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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the People's Solidarity for Participatory Democracy, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1404431

Please recycle

Declaration on the Right to Peace*

We, civil society organisations of the Republic of Korea, support the efforts of international society and the UN Human Rights Council to realize the right of peoples to peace following the "Declaration on the Right of Peoples to Peace,"[1] adopted by the UN General Assembly in 1984. We hope the result of these efforts, the Draft Declaration on the Right to Peace by the UN Human Rights Council Advisory Committee, will be discussed in depth at both the Human Rights Council and UN General Assembly in the near future.

The right to peace has also been a key agenda in the Republic of Korea. The Asian Human Rights Charter[2] which was adopted in 1998 in Gwangju, Republic of Korea, clearly declared the right of the peoples of Asia to peace. Even though the current Constitution of the Republic of Korea does not explicitly mention the right to peace, peace and human rights organisations in the country have continuously emphasised the right to peace since 2000 in opposition to military bases and exercises. As a result, in 2006, the Constitutional Court of the Republic of Korea made a decision that acknowledged the normative character of the right to peace, defining it as "the right to demand to live in peace without being forced into a war of aggression."[3]

We express our concern that the issue of military bases is not highlighted in the draft declaration on the right of peoples to peace. Various military facilities including military bases, either of own or of a foreign military, have threatened the social and physical safety of residents in surrounding areas. Therefore, local residents' democratic participation in the decision making process on the construction and operation of military bases should be recognised as a part of their right to peace. Even though Article 2(8) of the current draft stipulates that "States should ensure democratic governance of military and related budgets" and presents the principle of arms control in Article 3 "Disarmament", the issue of military bases is not mentioned. In contrast to this, the Santiago Declaration on the Human Right to Peace adopted in 2010 affirmed the necessity of applying the perspective of the right to peace on the issue of military bases, by stating that "States shall adopt effective and coordinated measures in order to progressively phase out their armies and foreign military bases" in Article 7. While recognising that many Asian countries including Japan and the Republic of Korea have suffered from the adverse effects of U.S. military bases, it is crucial to stipulate the issue of military bases in the declaration.

We believe that democratic control over the security sector is key to realizing the right to peace. Among these key factors, access to information and freedom of criticism are critically important to the right for peace. It is clearly confirmed in Article2(8) of the draft declaration on the right of people to peace, ensuring open debate about national and human security needs and policies as well as accountability of decision makers. The Article 8(1) and (2) of the Santiago Declaration on the Human Right to Peace also states "All peoples and individuals have the right to access and to receive information from diverse sources without censorship, in accordance with international human rights law, in order to be protected from manipulation in favour of warlike or aggressive objectives" and "All peoples and individuals have the right to denounce any event that threatens or violates the human right to peace." This shows the core elements of the right to peace and it should not be curtailed when the draft is finalised. In the case of the Republic of Korea, freedom of expression has been severely undermined by laws such as the National Security Act and we hope freedom of expression can be fully protected and promoted by encouraging the right to peace.

We appreciate that the right to conscientious objection to military service is highlighted in the Article 5 of the draft declaration. Since 1980, conscientious objection to military service has been considered as one of the core civil rights by the international society and it should be also recognised as a core right to peace based on its characteristic of opposing war and military exercise. In 2013, the Office of the High Commissioner for Human Rights pointed out that 92.5% of the conscientious objection to military service inmates of the world are imprisoned in the Republic of Korean

[1] UN Doc. A/RES/39/11, Declaration on the Right of Peoples to Peace
[2] Declaration on the Right of Peoples to Peace
[3] Constitutional Court Decision 2005Hunma268, 23 February 2006. Unfortunately, the decision made by the Constitutional Court in 2009 changed its decision in a way to deny the right to peace. (Decision 2007Hunma369, 28 May 2009)

prison.4 As of January 2014, around 700 conscientious objectors to military service are in prison in the Republic of Korea. We note with concern that several governments claimed the right to conscientious objection to military service to be decided by each state or to be excluded from the right to peace declaration because international consent has not made yet.5 We are deplored by the situation as many states do not fully understand and recognise the right to conscientious objection to military service as a fundamental right.

We hope these comments from the civil society of the Republic of Korea can be taken seriously and reflected in the final Declaration on the Right to Peace.

* Friends of Peace, Institute for Law and Human Rights in Society, Korean House for International Solidarity, Peace Network, Pyeongtaek Peace Center NGO(s) without consultative status, also share the views expressed in this statement.

[4] UN Doc. A/HRC/23/22, Analytical report on conscientious objection to military service(Report of the United Nations High Commissioner for Human Rights)

[5] UN Doc. A/HRC/WG.13/1/2, Report of the Open-ended Inter-Governmental Working Group on the Draft United Nations Declaration on the Right to Peace

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Human Rights Council
Twenty-sixth session
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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Verein Sudwind Entwicklungspolitik, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

An overview of public health in the Islamic Republic of Iran

The Islamic republic of Iran as an upper middle-income country with 62 percent of population under 30 year of age, is now within its "demographic window of opportunity" with the best chances to an all-round growth including health as a pillar of sustainable development.

In his report to this council, on unhealthy foods, non-communicable diseases (NCD) and the right to health, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health emphasized that "States should formulate and implement a national public health strategy and plan of action to address diet-related NCDs, which should be widely disseminated."[1]

This report highlights the situation of public health and NCD in the Islamic Republic of Iran (Iran). It is estimated that NCD are responsible for 72% of all deaths, beyond 14% from injuries and less than 13% from communicable, maternal, prenatal and nutritional conditions[2].

Communicable Diseases

In relation to the 13% of mortalities, risks from outbreaks of communicable diseases are still a real threat. Due to the population movement from neighboring countries endemic of poliomyelitis, malaria, tuberculosis, and cholera in special circumstances can increase the mortality rate, especially among people aged 0-45 years. For example, in 2009, around 10,000 tuberculosis cases were identified mainly among marginalized populations. Multi-drug resistant tuberculosis is a challenge especially in cross border areas.

In addition, injecting drugs remains the most important cause of transmission of HIV in the Iran (69.7 percent).

Injuries

In relation to the 14% of deaths, (around 50,000 lives each year) caused by injuries, the Islamic Republic of Iran is among the most disaster-vulnerable countries in the world, with floods, drought and earthquakes being the most frequent natural disasters. Ninety seven percent of the country is located on major fault lines and upon official statistics more than 120, 000 of people have lost their lives due to earthquakes in the past two decades.

The road injuries are the ninth cause of death, bringing about 1.3 million deaths worldwide[3]. In the Islamic republic of Iran this is the third cause of death with 18,000 deaths in 1392 (2013-14), which is about 50% more than global rate.[4]

Non-communicable Diseases

According to WHO, in 2005, 7% of the population (approximately 5 million people) were estimated to live under the calorie-based poverty line threshold. In 2010, an estimated 15-27 million[5] Iranians (approximately 20%-37%) lived under a relative income- poverty line[6].

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[1] A/HRC/26/31

[2] http://www.who.int/nmh/countries/irn_en.pdf

[3] http://www.who.int/mediacentre/factsheets/fs310/en/

[4] http://www.lmo.ir/uploads/m_ts.92_pdf.pdf

[5] http://www.alef.ir/vdcce4qi12bqsp8.ala2.html?218563

In the first 2 years of Iran's Subsidy Reform Plan, (2010-2012) the price of basic foods increased five folds, while people's purchasing power declined dramatically. Consumption of basic foods decreased up to 18%, milk and dairy products 42%[7].

a- Obesity

Like other countries which have reached a per-capita gross domestic product of US$ 2,500, in Iran obesity is more prevalent in the lower-income levels than higher-income groups and consumption of unhealthy foods is high, both among the lower income and lower levels of education.

Between 1980-2008, in Iran the mean body mass index has grown among males from approximately 23 kg/m^2 to 25 kg/m^2 (46.0% overweight and 12.4% obesity) and females from 23 kg/m^2 to 27 kg/m^2 (56.8% overweight and 26.5% obesity).

IRI is ranked among the lower middle income group countries (US$ 10,695 GNI per capita in 2012) with 77, 518, 000 population in April 2014[8].

b- Air pollution

Along with overweight/obesity which predisposes or is associated with numerous NCDs including cardiovascular diseases (CVD), type 2 diabetes, hypertension, certain cancers, sleep apnea/sleep-disorder-breathing, venous insufficiency, venous thrombosis, pulmonary diseases and pulmonary embolus and stroke[9], air pollution is also a contributory factor as well as the cause of such diseases.

In 2010, according to WHO's urban air quality database which covers 1600 cities across 91 countries including Tehran, Khorram Abad and Ahvaz , the annual mean of PM[10] 2.5 (fine particles) and PM 10 in these cities were 30, 102, 70 and 91,121,320 mcg/m3 respectively.

However, the maximal targeted limit for the first is10 mcg/m3 and for the latter 25 mcg/m3 according to WHO.[11]

Ahvaz, one of the above named cities, is ranked at the top of 10 most polluted cities in the world[12]. In the autumn 2013, emergency wards in Ahvaz hospitals were filled with thousands of patients who had suffered from breathing problems.[13,14] Some local media reported acid rain has caused 20,000 people to become ill in only one month.[15] Sulfuric acid associated gas from oil production and nitrates from the petroleum industry and from post-harvest burning of stubble on sugar cane plantations are likely to be the causes of the acid rains in this city. According to statistics[16] between 2004-2009, cases of cancer among Ahvaz population increased dramatically. According to director of Shafa hospital in Ahvaz, between 2007-2008 the rate of cancer increased 5 folds but further information is hard to access as publication of data and statistics regarding cardiovascular, cancer and other diseases related to air pollution had been banned by the authorities in the Ahvaz province.

c- Asbestos

[6] http://khabaronline.ir/%28X%281%29S%28fzkoke015hoeqfy5gibaew1uk%29%29/detail/224499/Economy/1379

[7] http://www.hamshahrionline.ir/details/259689

[8] http://www.farsnews.com/newstext.php?nn=13930216001166

[9] http://atvb.ahajournals.org/content/26/5/968.full

[10] Atmospheric particulate matter

[11] http://whqlibdoc.who.int/hq/2006/WHO_SDE_PHE_OEH_06.02_eng.pdf

[12] http://science.time.com/2013/10/18/the-10-most-polluted-cities-in-the-world/

[13] A/HRC/25/NGO/169

[14] http://observers.france24.com/content/20131129-acid-rain-ahvaz-poisons-thousands-iranians-pollution-air-iran-khuzestan-breathing-respiratory-environment

[15] http://www.ahwaziarabs.info/2013/11/thousands-hospitalised-in-ahwaz.html

[16] http://www.bbc.co.uk/persian/iran/2014/01/140128_nm_khouzestan_cancer.shtml

One of the most dangerous "fine" particles to which man is exposed to is asbestos dust. Asbestos is a set of six naturally occurring minerals used in automobile brake pads, clutch discs and construction buildings. Inhalation of asbestos fibers has been linked to lung cancer and other serious respiratory diseases. Although as of this year (2014), most vehicle manufacturers stopped use of asbestos. However, many used spare parts in the world contain asbestos and some vehicle producers in Iran and China (the country which exports many vehicles to Iran) still use asbestos in their production.
A research done by a medical science university in Iran shows that the existing asbestos of Tehran's air is 300 times more than other cities and the amount of asbestos in the lungs of the traffic police personnel is 4 times more than that of Tehran's air.[17]

d- Gasoline and petrol

A rushed effort to produce petrochemical gasoline and petrol to provide the country's needs by the former government of Islamic Republic of Iran caused another case of dangerous air pollution source in the Iranian cities. This kind of products contain up to 35 times more benzene than normal gasoline.[18]
Human exposure to benzene is associated with a range of health effects and diseases, including cancer and aplastic anemia.[19]

e- Satellite jamming

Satellite jamming is a pervasive reality in Iran. IRI have used both orbital and terrestrial jamming to censor free expression and access to information. Portable terrestrial jammers have a range of 3-5 kilometers in urban areas.[20] Although Iranian authorities have never divulged the exact strength of the frequencies, it is proved that some jamming have the frequencies more than one gigahertz.[21]
While the Iran's Parliamentary health commission, believes dizziness, mental and nervous disorders to be common side- effects of jamming,[22] only recently Iran's health ministry has set up a committee to investigate whether the state's jamming of satellite signals could pose a health risk to citizens.[23]

Iran's commitments

The United Nations Development Assistance Framework (UNDAF) for the IRI as the result of a consultative process between the Government of Iran and the United Nations Country Team, guided by the goals and targets of the Fifth Five Year National Development Plan 2011 2015, as well as by the Millennium Development Goals (MDGs), proposed a plan of action to interfere five inter related priority areas with focus on strengthened capacity development, South South cooperation to benefit from sharing of best practices and experiences; transfer of science and technology and collection of quality data for more evidence based decision making. The five priority areas are: Poverty Reduction, Health, Environmentally Sustainable Management, Disaster Risk Reduction and Management, and Drug Prevention and Control[24].

[17] http://www.iew.ir/1392/03/04/9371
[18] http://iranwire.com/blogs/6275/4766/
[19] http://www.who.int/ipcs/features/benzene.pdf
[20] http://ebtekarnews.com/Ebtekar/Article.aspx?AID=12219
[21] http://www.tabnak.ir/fa/news/72031
[22] http://mardomsalari.com/template1/News.aspx?NID=65940
[23] http://www.theguardian.com/world/2014/feb/05/iran-health-risk-jamming-signals-cancer
[24] http://www.undg.org/docs/12167/UNDAF-final-version-signed-27-Sep-2011.pdf

According to this agreement, the government of Iran must reduce inequality to a Gini coefficient of from 0.4 to 0.3 by the end of the Fifth Five Year NDP period. While access to health care services is formally almost universal, Primary Health Care (PHC) in urban areas is 40 percent, in shanty towns it falls to 9 percent. Twenty five Rapid changes in the demographic and epidemiological profile in urban and shanty town and rural areas have highlighted the importance of strengthening the PHC system.

Recommendations:

1- Eradication of communicable diseases,
2- Improving road safety,
3- Improving country infrastructure against natural disasters,
4- Equal distribution of wealth with a view to eradicate poverty in practice,
5- Improvement in the health care services to provide universal health care,
6- Enable the World Health Organization to determine the actual frequency emissions, emanating from terrestrial jamming in Iran, and the associated health risks to the civilian population.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Gazeteciler ve Yazarlar Vakfi, a non-governmental organization in general consultative status

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Please recycle

An inspirational public-private partnership to improve girls' education in Afghanistan

The Journalists and Writers Foundation (JWF) believes that education is one of the key factors that affects all dimensions of sustainable development and can significantly enhance the integration of the dimensions in a cross-sectorial manner. If delivered properly, education has a transformative characteristic that can significantly trigger equitable economic development, increase social inclusion, foster environmental sustainability and improve governance.

In some specific cases such as the one in Afghanistan, the issue of girls' education becomes one of the most salient points in the international community's concern regarding the future of this country. The future of a country is bleak if all of its citizens are not provided with the equal opportunity to develop their personalities to a level that will allow them to get involved in the process of building their own future. The conscience of the international community has modified during the last several decades to such an extent that the focus on the rights of the individual is becoming more and more emphasized. In this regard, International law is not only a huge body of rules and norms whose role is only to protect the rights and the interests of the States. On the contrary, the nature of the international law changed to such an extent that today it obliges the States to protect the basic human rights of their own citizens. In fact, the legitimacy of the States came to be dependent on its capacity to protect citizens' basic rights. The right to education is high on the agenda of several international organizations and international agreements that are relevant to the subject of human rights. Article 28 in the Convention on the Rights of the Child, Article 13 in the International Covenant on Economic, Social and Cultural Rights, and various articles in the International Covenant on Civil and Political Rights are concerned with the issue of the right to education.

Efforts of the International Community

Throughout the last couple of decades, we are witnessing that the international community is increasingly becoming more active in advocating and promoting human rights in general, and girls' right to education in specific. The above-mentioned covenants put a special emphasis on the nondiscriminatory nature of the human rights, which are to be protected by the States Parties. Article 2(2) of the ICESCR explicitly states that "the State Parties to the present Covenant undertake the guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." This provision recognizes that all States Parties to this covenant should respect the dispositions on the right to education in a nondiscriminatory fashion.

Improving girls' opportunities to gain an appropriate education is an obligation of every State, which is committed to the noble principle of protecting the human rights of its own citizens. The UN Millennium Development Goals also put a crucial emphasis on the importance of universal education and gender equality. While second goal

underline to achieve universal primary education, third goal aims to eliminate gender disparity in all levels of education no later than 2015."[1]

The Situation in Afghanistan

However, unfortunately one must admit that, *de facto* situation in Afghanistan does not reflect these *de jure* provisions and goals. For this reason, the education of girls in Afghanistan has been a top issue for various UN agencies (primarily UN Women and UNICEF) due to the religious, cultural and political challenges brought by the contentious political structure in the area, which made it extra difficult for girls to receive primary and secondary education. As can be understood from the tremendous popularity that Malala Yousufzai received after being shot by the extremists, "it takes more than textbooks and pencils to be a schoolgirl in Afghanistan—it also takes tremendous bravery and tenacity."[2] As the combined periodic reports of Afghanistan to the CEDAW committee expresses, "there are no discriminatory issues against women in the educational laws of Afghanistan,"[3] as the legal obstacles to girls' education have been removed since the ousting of the Taliban in 2001. Yet, 38 percent of school age children (4.2 million) do not have access to schools, most of which are girls.[4] Girls' education is hindered "at almost every turn by vicious militant attacks, a lack of adequate facilities and teachers" and sometimes the reluctance of their parents to break the tradition that sees girls belonging at the domestic sphere.[5]

Women's position in Afghanistan's educational system is placed high on the agenda of the CEDAW. In the report concerning the situation in Afghanistan significant space is devoted to the education opportunities for the girls in this country. The lack of security in Afghanistan is emphasized as the main reason for the girls' low attendance in the education process. The report points to the fact that the "antigovernmental insurgents are against women's education and have closed girls' schools." The real problem, according to the report, is that those who prevent girls from going to school do not face any penalty. This inefficiency on the part of the State to punish those who disrespect the girls' right to education is a clear sign of not being committed to the principles of the Convention on the Elimination of All Forms of Discrimination against Women and especially article 10 which states that "state parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education."

Relevance of the Civil Society Initiatives

[1] The Millenium Development Goals Report 2013, p. 16.
[2] Jen Banbury, "Girls' education in Afghanistan" UNICEF USA. http://www.unicefusa.org/news/news-from-the-field/feeding-girls-hunger-to.html
[3] Combined initial and second periodic reports of Afghanistan to the CEDAW Committee, p. 49. http://www.unwomen.org/en/news/stories/2013/7/afghani-women-strive-to-get-an-education#sthash.CkYkjmH0.dpuf
[4] Ibid, p. 55.
[5] Banbury, "Girls' education in Afghanistan".

One of the missions of the JWF has been to present the significant role the civil society can have in almost every area of social life today, and its power to contribute to the international organizations' efforts to improve people's lives in general. Education is widely considered to be one of the most important milestones on which opportunities for having a better life are being built. That is the reason behind our staunch insistence on promoting the idea that when the official structures of the state and the international community are unable to provide the basic human rights to everybody, civil society organizations should step in.

Civil society initiatives, which resulted with the founding of many Afghan-Turkish schools in Afghanistan, present to all relevant actors in the international arena a model of how public-private partnership may contribute to the promotion of human rights, even in political contexts where it is extremely difficult to be accomplished. Three functional principles of these initiatives constituted the main reason behind the success of the Afghan-Turkish schools:

1. The idea for the establishment of the schools in Afghanistan was an outcome of a common action by several business networks from Turkey. Their experience demonstrates the fact that it is much easier and convenient to engage in altruistic activity when such activity is supported by larger number of businessmen rather than when it is expected to be done by one or two businessmen. This unique example should serve as a model to be promoted by the UN agencies and other relevant international actors. In other words, the UN should spend more energy in encouraging business networks around the world to devote some part of their financial assets for educational purposes (especially in places with undergoing problems of poverty or conflict), thus indirectly enhancing the promotion of human rights, as the example of Afghan-Turkish schools shows.

2. The second important dimension of this kind of philanthropic activism is that the schools that were initially established by the business networks are later taken over by local people who are able to manage them. Thanks to the quality education provided, most of these institutions are either financially supported by the governments where they exist or given opportunity to use state facilities to operate. This Public – Private Partnership (PPP) model in education has been a cornerstone of the quality education delivered to the children. Administered and supported by the governments and managed by entrepreneurs, these school models provide rigorous curriculum and they become sustainable institutions devoted to solving the pressing societal problems existing in every society in which they have been established.

3. The fact that these schools have both, students who are paying for the tuition and students who are on scholarship proves that the distributional nature of these educational institutions is yet another characteristic that makes them unique. This enables poor students to get a high quality education, thus promoting the principle of equality of opportunity. Put it differently, these schools are guided by the principle that each student (whether poor or rich, male or female) should have equal opportunity for reaching his/her intellectual capacity.

The norms and principles, which guide the work of the Afghan-Turkish schools, are automatically conducive to the goal of protection and promotion of human rights. Respect is the crucial principle on which the work of these schools is organized. Respect is best learnt through education. It leads to civic mindedness, which is crucial factor for every kind of development within a given society. Nondiscrimination is the basic focus of respect. This focus of nondiscrimination is reflected in the way the Afghan-Turkish schools provide education to everyone, irrespective of nationality, ethnicity or sex. This fact proves that these schools are devoted to accomplishing the goal of contributing to the development of Afghanistan through education and respect.

The principle of nondiscrimination was not abandoned even in times of great insecurity. As it becomes clear from Malala's testimonials, the Taliban rebels posed a great danger for the girls who wished to go to school and for their families as well. Girls were harassed, hurt and even killed on their way to school. Also, there was a great pressure on the schools to stop accepting girls. By putting themselves against the will of the Taliban leaders (who were trying to fiercely prevent girls from attending school), the managers of these schools presented their commitment to respect and their opposition to discrimination between students on any kind of basis, including discrimination on the basis of sex. Therefore, these schools stand firmly on the side of protecting human rights generally and girls' rights to education specifically.

One of the positive results of this commitment to universal right to education was its contribution to creating conditions for sustainable peace in Afghanistan. At the same time, the successful story of these schools proved that non-state actors might contribute to the promotion and protection of human rights and various provisions of the international law even when security conditions do not allow it. The Afghan education minister expressed his gratitude to the Afghan-Turkish schools for their resistance to Taliban's irrational will and for their efforts to create conditions conducive to peace and development. As he declared, "Turkish-Afghan schools are playing a vital role in bringing people together to live in happiness and prosperity."

Call to the UN to help civil society institutions focused on education

All of the abovementioned characteristics of the Afghan-Turkish schools demonstrate the fact that their influence is much wider, going beyond the contours of education. In other words, education must be considered, as everybody's right and it should be provided to everyone irrespective of nation, religion or sex. However, there must be other ways of doing it. The success of the Turkish-Afghan schools is a clear sign for the UN to start considering to help social initiatives as this one. The lack of financial power puts limits to the enthusiasm of the educational workers of these schools. In this respect, a big opportunity stands in front of the UN to notice the enthusiasm in civil initiatives such as the one explained here, and to combine their forces for the purpose of promoting human rights through education.

United Nations A/HRC/26/NGO/88

General Assembly

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Human Rights Council
Twenty-sixth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-04443 (E)
1404443

Please recycle

Human Rights defenders in the People's Republic of China

In its report for the year 2013, the Chinese NGO „Chinese Human Rights Defenders" listed around 220 cases of arrests of Chinese human rights activists. There are systematic intimidations against human rights activists, house arrests, arbitrary arrests and detentions. Also, they cannot hope for mercy in court, because 99 percent of the court proceedings end with a conviction – and often with a long prison sentence – in order to systematically silence the critics of corruption, abuse of power and lack of democratization. China's security forces and judiciary are systematically flouting international human rights conventions in order to silence human rights activists.

Ahead of the 25th anniversary of the Tiananmen crackdown the Chinese government has intensified its efforts to hinder human rights activists to remember what happened in Beijing in June 1989. Activists and lawyers who held a "June 4 commemoration seminar" at a private home in Beijing on May 3, were subsequently persecuted by state authorities. Within days, five of the 15 participants detained and accused of "picking quarrels and creating a disturbance" One journalist, Gao Yu, did not even make it to the seminar: he was arrested beforehand on charges of leaking state secrets.

The human rights defender Cao Shunli died in prison in March 2014 after having been denied adequate medical care for her illness. She died at age fifty-two. She had been wanting to go to Geneva to take part in a human rights training seminar at the United Nations in Geneva, Switzerland in order to advocate for a more transparent human rights policy in China in September 2013. Cao Shunli was arrested before she could get to Europe on 14 September 2013.

On 26 January 2014, the human rights advocate Xu Zhiyong was sentenced to four years in prison for „gathering crowds to disturb public order". On 11 April, 2014, the sentence was confirmed by an appeals court in Beijing. Xu Zhiyong, a law professor at the University of Beijing was one of the leading representatives of the democracy movement in the country. He had founded a grass-roots movement promoting citizens' rights which had campaigned for equal rights to education for the children of rural migrant workers as well as the public disclosure of Communist Party officials' assets. The People's Republic of China signed the United Nations Convention against Corruption (UNCAC) in 2003 and ratified it three years later, yet Xu Zhiyong was punished for advocating the spirit of the Convention whose Article 52.2 states that the adherents „shall consider establishing "financial disclosure systems for public officials and sanctions for non-compliance.

The imprisonment of the prominent Uyghur professor for economics Ilham Tohti on January 15, 2014, for alleged „separatism" was set up over a period of at least seven months. In order to silence the human rights activist, state security had collected allegedly incriminating evidence and harrassed or arrested some of Tohti's students. Ilham Tohti is well-known in China and abroad for his attempts to mediate between the Uyghur and the Han Chinese. On his website „Uyghur online", he explained the background of the unrests in the nortwest of the People's Republic of China, where most Uyghurs live, in Chinese language. Before his arrest on January 15, 2014, Tohti had already been put under house arrest or threatened by the security authorities several times.

In December 2013, two Tibetans came to a violent death in Chinese custody within only eleven days: the Buddhist monk Ngawang Jamyang and Kunchok Dhakpa, a critic of mining projects. Both of them were tortured, although torture is strictly prohibited under Chinese laws. The People's Republic of China has ratified the Convention against Torture. Almost every week, Tibetan human rights activists are sentenced to long prison terms for merely attempting to advocate the preservation of the Tibetan language and culture or protesting against the destruction of their homes in the course of new mining projects. Tibetan citizens of the People's Republic of China also face draconian punishment if they dare to publicly commemorate those Tibetans who burned themselves.

The Mongolian human rights activist Hada has been illegally kept imprisoned for more than three and a half years. He was supposed to be released from prison on 10 December, 2010. His Wife Xinna and his son Uiles are under house arrest. Xinna describes Hada's health as "catastrophic."

China's "New Citizen Movement" – a movement that campaigns for an end to corruption, for democratic change and a rule of law – is systematically criminalized too. Several dozen members of the movement were arrested during the past six months and some of them have been sentenced to prison in an unfair trial already.

Society for Threatened Peoples calls on the Human Rights Council to urge the Government of the People's Republic of China to:

- Release the Mongolian human rights activist Hada and the Uyghur Ilham Tohti from prison;
- Ensure the freedom of press and free speech;
- Ensure the adequate medical treatment of prisoners;
- Cease its harassmen to f human rights defenders;
- Bring its laws into line with accepted international standards.

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Human Rights Council
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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Lawyers' Rights Watch Canada, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Colombia: Failure to fulfill duties in response to attacks on lawyers

LRWC calls on the Human Rights Council to fulfill its duty to promote and protect the rule of law and fundamental rights and freedoms in Colombia by calling on Colombia to act urgently to:

- Prevent and address the conditions leading to murders and attacks on the personal and professional safety of lawyers working in Cali and the Valle del Cauca Department (Valle del Cauca Department); and
- Ensure criminal accountability for perpetrators of murders, threats and attacks.

I. Background

The UN Special Rapporteur on the Independence of Judges and Lawyers reported in 2010 that more than 300 judicial system actors had been killed in Colombia in the previous 15 years.[1] She referenced the fact that by the National Police's own count, between the years 2003 through 2009, one magistrate, six judges, 12 prosecutors and 334 lawyers were killed.[2] According to civil society groups in Colombia, approximately 700 lawyers have been killed over the ten year period up to 2013.[3] As the Special Rapporteur observed, also gravely concerning is the impunity associated with these cases. The majority of cases have not been adequately investigated and even fewer have resulted in criminal sanctions, a situation which itself contributes to maintaining impunity.[4]

The situation of the legal profession in the Valle del Cauca Department is particularly serious. Since the bombing of the Palacio de Justicia in Cali in 2008, which had profoundly adverse effects on the administration of justice, killings and attacks in the region have increased. In the first 10 months of 2013, 11 of 15 reported murders of Colombian lawyers occurred in the Valle del Cauca Department. [5]The data regarding the attacks and killing of lawyers is supported by reports in the press and reports by Lawyers Without Borders Canada, the Colombia Caravana UK Lawyers Group[6] and the Society of Litigating Lawyers in Cali[7] (SLLC). SLLC reports that in 2013 at least twelve lawyers in the Valle del Cauca were murdered, and the actual numbers are likely higher.

Lawyers reportedly murdered in the Valle del Cauca Department during 2013 were:

1. Eduardo Antonio Almario Martinez, Cali – Valle, January 25, 2013
2. Daniel Alejandro Almario Calderon, Cali – Valle, January 25, 2013

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[1] Informe de la Relatora Especial sobre la independencia de los magistrados y abogados, Sra. Gabriela Carina Knaul de Albuquerque e Silva, Misión a Colombia, 16 de Abril 2014, A/HRC/14/26/Add.2: http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/14/26/Add.2&Lang=S [accessed on 10 May 2014] at para. 53.

[2] Ibid.

[3] Bar Human Rights Committee of England and Wales (BHRC), Declaración Publica: El BHRC expresa preocupación por la muerte de otro abogado en Colombia [BHRC expresses concern about the death of another lawyer in Colombia], April 8, 2013: https://www.barhumanrights.org.uk/sites/default/files/documents/news/bhrc_declaracion_publica_8th_april_0.pdf [accessed on 10 May 2014], at p. 1.

[4] Ibid.

[5] Between January and November 2013, the Colombian Caravana UK Lawyers Group, recorded 15 deaths, including 11 in Valle del Cauca.

[6] See their website at: http://www.colombiancaravana.org.uk.

[7] By its Spanish name, SLLC is Colegiatura de Abogados Litigantes La Fuerza del Derecho.

3. Jorge Ivan Gomez Guerrero (or Guevara),[8] Cali – Valle, February 28, 2013
4. Jhony Alberto Balarezo Ortiz, Florida – Valle, March 1, 2013
5. Diego Luis Garcia Gonzalez, Cali – Valle, March 21, 2013[9]
6. Alberto Arias Escobar, Valle del Cauca, April 30, 2013
7. Andrés Felipe Parra Utima, Cali, June 23, 2013
8. Fabio Molina Velasquez, Cali – Valle, July 13, 2013
9. Jose Gerley Sanchez Benitez, Cali - Valle, July 16, 2013
10. Juan Carlos Canizalez Campo, Buga, August 12, 2013
11. Carlos Alberto Nuñez, Cali, October 5, 2013
12. Octavio Quinchia Grisales, Risaralda, 23 November 23, 2013[10]

Victim, Jose Gerley Sanchez Benitez, is described by a Colombian news source as the tenth lawyer in the Valle del Cauca Department to be killed in 2013.[11] SLLC spokesperson, Alejandro Arenas, indicated that Colombia had not responded adequately to the many petitions calling on authorities to take all necessary measures to protect lawyers in the exercise of their profession. Following the murder of lawyer Fabio Molina Velasquez three days earlier, Arenas had called on the state to investigate all murders of lawyers in 2013 and past years, to ensure justice and end impunity.[12]

LRWC is aware of only one of the Valle del Cauca Department murders cited above where an investigation has reached the stage where two alleged perpetrators have been captured, namely in the death of Jorge Ivan Gomez Guerrero/Guevara.

Threats and Harassment

Threats against lawyers in the Valle del Cauca Department from the "Los Rastrojos" paramilitary group [13] and other sources also increased during 2013.[14] LRWC has also reviewed documentation of threats and harassment against lawyers working with the Corporación Justicia y Dignidad (CJD), extending back to 2009-2010. The Cali-based CJD represents victims of torture, extrajudicial executions and forced displacement. The said documentation reviewed demonstrates a persistent pattern of threats, harassment, and surveillance against CJD members, extending back to March 2009.

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[8] There is some confusion about whether the surname of this victim, reported to have practiced criminal law, is Guerrero or Guevara.

[9] The BHRC declaration refers to the murder of Diego Garcia, supra note 4 at p. 1.

[10] The victim was tortured and killed. His entire family was subsequently forced to leave the country due to death threats: http://www.rcnradio.com/noticias/familia-completa-abandono-el-pais-desplazados-por-violentos-112085 [accessed May 16, 2014].

[11] "Asesinan a abogado en su vivienda del barrio Los Andes, norte de Cali", El Pais, 17 de julio 2013, http://www.elpais.com.co/elpais/judicial/noticias/asesinan-abogado-barrio-andes-cali [accessed May 16, 2014] [hereafter "*Asesinan a abogado de Cali*"].

[12] In a separate article published on July 16, 2013, Mr. Arenas commented on the murder of lawyer, Fabio Molina Velasquez. Arenas emphasized how vulnerable lawyers are in the Valle del Cauca department, referring to the fact that the Day of the Lawyer was being celebrated that week: "Ya son nueve los abogados asesinados en el Valle en lo corrido del 2013" ["There are already nine lawyers killed in the Valley to date in 2013"], El Pais, 16 de julio 2013, http://www.elpais.com.co/elpais/judicial/noticias/ya-son-nueve-abogados-asesinados-valle-corrido-2013 [accessed May 16, 2014]. The Spanish text reads: *Alejandro Arenas, decano de la Colegiatura de Abogados Litigantes del Valle, ayer lamentó el asesinato de Fabio, porque "queda demostrado lo vulnerables que estamos en este momento los abogados en el departamento del Valle". Por eso, la semana pasada, en plena celebración del Día del Abogado, Arenas aprovechó para pedirle al Estado que se investigue a fondo cada uno de los homicidios de personas del gremio, tanto los de este año como los pasados, "para que ninguno quede en la impunidad y se haga justicia", indicó.*

[13] The increase in threats originating from this group and directed towards lawyers and other human rights defenders was a phenomenon observed throughout Colombia in 2013.

[14] Several illustrations are contained in the following letters of the Colombian Caravana UK Lawyers Group: http://www.colombiancaravana.org.uk/wp-content/uploads/2013/05/Garzon-Letter-threats-Sept-2013-FINAL-English.pdf; http://www.colombiancaravana.org.uk/wp-content/uploads/2013/04/Death-threats-CAJAR-Aug-15-Eng-Final.pdf [accessed May 20, 2014].

Colombian State's Response

Lawyers in the Valle del Cauca Department have sought remedies from Colombian authorities by petitioning the President and the Ministry of Justice, to no avail. The SLLC has, over the past nine years documented the murders of lawyers, lodged petitions with the President and Minister of Justice, and called for protective measures for lawyers. The intellectual authors of these cases have not been prosecuted or convicted; prosecutions commenced were concluded without resolution because of the lack of investigation; complaints filed with the General Prosecutor (Fiscalía General) have been received and archived; and protective measures have not been provided to lawyers.

II Legal Framework

The persistent patterns of attacks, threats, harassment and killings to which lawyers are subjected have grave implications for Colombia and the administration of justice. The state is also implicated in a number of significant respects, both in relation to its omissions as well as its actions.

The essential role that lawyers play in facilitating access to justice, guaranteeing respect for protected rights, combating impunity and ensuring the rule of law, is well established in international human rights law, and the States' obligations flow from this principle.[15] Colombia is legally obligated to take all measures necessary to ensure both accountability for perpetrators and effective protection for lawyers. The Colombian authorities are required to investigate these killings and threats with due diligence and make all possible efforts in order to assure an effective investigation so as to bring to justice the material and intellectual authors of these crimes.

Colombia has failed to fulfill its obligations to take reasonable steps to prevent such attacks in by failing to: (a) adopt effective measures to protect the lives of lawyers; and (b) ensure accountability through investigation and prosecutions. As a State party to the *International Convention on Civil and Political Rights* (*ICCPR*), Colombia has a legal duty to ensure the right to life of all persons and take measures to effectively prevent and punish violations. The duty to specifically protect the lives and the personal and professional safety of lawyers is integral to Colombia's duty under the *ICCPR* to ensure that all persons have effective access to legal services and to justice.
The United Nations Human Rights Committee (HR Committee), in a case involving a lawyer in Colombia, concluded that the state's failure to investigate reported threats and to investigate his death and determine who was responsible for the murder was itself a violation of the state's obligation to protect the victim's right to life, pursuant to Article 6(1) of the *ICCPR*.[16]

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[15] As an illustration, see: European Parliament, Resolution on the legal professions and the general interest in the functioning of legal systems, 23 March 2006, P6_TA(2006) 0108, at para 1, cited in ICJ, *Legal Commentary to the ICJ Geneva Declaration Upholding the rule of Law and the Role of Judges and Lawyers in Times of Crisis*, Human Rights and Rule of Law Series no 3, p. 113; http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2011/05/ICJgenevadeclaration-publication-2011.pdf. That body has underscored this foundational principle, recognizing the crucial role of an independent legal profession in guaranteeing respect for fundamental rights in a democratic society.

[16] UN Human Rights Committee, *Communication No 859/1999: Colombia,* 15 April 2002, CCPR/C/74/D/859/1999 (Jurisprudence), *at* § 7.3 available at : http://www.unhchr.ch/tbs/doc.nsf/0/b8708c80eebeec9ec1256c1b004c520f?Opendocument: "*With regard to the author's claim that article 6, paragraph 1, was violated insofar as the very fact that an attempt was made on his life is a violation of the right to life and the right not to be arbitrarily deprived of life, the Committee points out that article 6 of the Covenant implies an obligation on the part of the State party to protect the right to life of every person within its territory and under its jurisdiction. In the case in question, the State party has not denied the author's claims that the threats and harassment which led to an attempt on his life were carried out by agents of the State, nor has it investigated who was responsible. In the light of the circumstances of the case, the Committee considers that there has been a violation of article 6, paragraph 1, of the Covenant*". (emphasis added)

The UN *Basic Principles on the Role of Lawyers*[17] (*Basic Principles*) which elaborate on the duty of states to effectively protect the safety of lawyers directs states to ensure that, "where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities".[18]

The *Geneva Declaration on Upholding the Rule of Law and the Role of Judges and Lawyers in Times of Crisis* (Geneva Declaration)[19] is especially salient for Colombia in establishing under Principle 7 "enhanced responsibilities" for states to safeguard the security of lawyers and to provide: "all necessary measures to ensure the protection by the competent authorities of lawyers against any violence, threats, retaliation… as a consequence of their professional functions or legitimate exercises of human rights".[20]

The Colombian state has breached these international standards and affirmative duties through its failure to take even elementary steps towards the investigation and prosecution of these serious crimes.

III. Conclusion

The United Nations Human Rights Council is mandated to promote and protect human rights by, *inter alia*, preventing violations, removing obstacles to enforcement, engaging states in dialogue, and making recommendations for the protection of human rights.[21]

LRWC calls on Council to:

1. Affirm Colombia's twin duties to provide adequate protection for the rights to life and the personal and professional safety of lawyers, and to ensure that the perpetrators of violations are held accountable through thorough adequate investigations and timely prosecutions;

2. Request Colombia to provide protection for lawyers in the Valle del Cauca Department and to ensure the appropriate civil and criminal remedies of the murders cited.

3. Ascertain obstacles to these goals through ongoing dialogue

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[17] OHCHR, *Basic Principles on the Role of Lawyers*, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 1990, U.N. Doc. A/CONF.144/28/Rev.1, available at: http://www2.ohchr.org/english/law/lawyers.htm [*Basic Principles*].

[18] *Ibid*, at Principle 17.

[19] The International Commission of Jurists, *Geneva Declaration on Upholding the Rule of Law and the Role of Judges and Lawyers in Times of Crisis* Geneva Declaration is an instrument adopted by the World Congress of that influential international body of jurists which is dedicated to ensuring respect for international human rights standards through the law. Information about the International Commission of Jurists available at: http://www.icj.org/.

[20] The full script of Principle 7 of the *Geneva Declaration* reads: *Since the protection of human rights may be precarious in times of crisis, lawyers should assume enhanced responsibilities both in protecting the rights of their clients and in promoting the cause of justice and the defence of human rights. All branches of government must take all necessary measures to ensure the protection by the competent authorities of lawyers against any violence, threats, retaliation, de facto or de iure discrimination, pressure or any other arbitrary action as a consequence of their professional functions or legitimate exercise of human rights. In particular, lawyers must not be identified with their clients or clients' causes as a result of discharging their functions. The authorities must desist from and protect against all such adverse actions. Lawyers must never be subjected to criminal or civil sanctions or procedures which are abusive or discriminatory or which would impair their professional functions, including as a consequence of their association with disfavoured or unpopular causes or clients.* See also the UN Commission on Human Rights, *Independence and Impartiality of the judiciary, jurors and assessors and the independence of lawyers*, 19 April 2004, UN Doc. E/CN.4/RES/2004/33, which established the requirement that states must adopt effective measures, including legislation and enforcement to enable lawyers to perform their duties without harassment or intimidation.

[21] General Assembly Res. A/RES/48/141 20 Dec. 1993, articles 3 (a), (f), (g) and General Assembly Res.A/RES/60/251, 3 Apr. 2006, art. 5(i).

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Human Rights Council
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Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the Foodfirst Information and Action Network (FIAN), a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

FIAN International calls on the Human Rights Council to start working towards the adoption of a legally binding instrument on TNCs and human rights

FIAN International is a non-governmental human rights organization working for the right to adequate food in over 50 countries worldwide. FIAN supports, inter alia, the struggles of communities affected by violations of the right to adequate food, and monitors public policies related to the right to adequate food and nutrition in light of existing international human rights standards.

As part of the Treaty Alliance (www.treatymovement.com) - a global alliance of civil society organizations (CSOs), campaigns, networks and social movements - FIAN has been advocating for the adoption of a legally binding international instrument on human rights and transnational corporations (TNCs).

Through this statement, FIAN International highlights the reasons why such a binding instrument is needed, and calls on the Human Rights Council to take steps towards the creation of an Open-Ended Working Group, to draft a binding instrument on human rights and TNCs. Such an instrument would close the existing gaps in protection and overcome the weaknesses of the existing non-binding norms, which have not been effective in guaranteeing TNCs' accountability, and do not ensure effective remedies to the victims of violations in which TNCs are involved.

1. Background

The issue of the impact of TNCs' activities on human rights is an old one. The first attempts at regulation date back to the 1970s, when companies' direct and indirect implication in systematic human rights violations imposed the need for multilateral efforts towards ensuring corporate human rights accountability. Since then diverse symbolic non-binding instruments of regulation, from the ILO Tripartite Declaration of Principles concerning Multinational Companies and Social Policy in 1977, to the more recent UN Global Compact (2000) and UN Guiding Principles on Business and Human Rights (2011) have been adopted. These instruments have fallen short in guaranteeing the respect and protection of human rights, and remedy for those affected by human rights abuses in which TNCs are involved. Additionally, a large body of binding rules have been adopted in the frame of trade and investment, mainly serving to protect international investors, more than contr[illegible]ng their operations under the human rights frameworks. The imposition of corporate interests over human rights in different intergovernmental forums, including the World Bank and the WTO, has been frequently denounced by CSOs and social movements.

In this frame, the initiative for a legally binding instrument on TNCs and human rights was called by a number of CSOs at the first regional meeting of the UN Working Group on business and human rights (August 2013, Medellin - Colombia) and at the Peoples' Forum convened by ESCR-Net and Forum Asia (November 2013, Bangkok). In September 2013, during the 24th session of the Human Rights Council (HRC), Ecuador read a statement supported by 85 States and 200 CSOs calling the HRC to work towards a binding instrument for human rights and business.

2. The insufficiency of existing international standards in guaranteeing TNCs' accountability and effective remedies for victims of human rights violations

Ever since their compilation in 2008, FIAN – supported by a number of CSOs and social movements – has openly expressed the weaknesses of the UN Guiding principles on Business and Human Rights (UNGPs), as these do not represent an advance in the existing international standards in the field of TNCs and human rights.

First, human rights standards should not be negotiated with private actors working for profit or with other actors having conflicts of interests. Nonetheless, this has been the case of the UNGPs. This situation makes questionable the human rights accuracy of these principles.

Second, while voluntary in nature, the UNGPs understate international human rights law as well as the obligations of both States and TNCs. Indeed casework has shown that voluntary measures are insufficient to ensure accountability and access to justice for affected communities and individuals.

Third, the restriction of the mandate of the Working Group on business and human rights established by the HRC in 2011 to the dissemination and implementation of the UNGPs, does not provide it with real competences to ensure accountability of TNCs. Moreover, the establishing resolution contains ambiguous paragraphs with regard to the possibility for the Working Group to receive individual communications and to work on further development of existing standards. These unclear formulations allow divergent interpretation by stakeholders and thus maintain gaps in protection. In the praxis the Working Group has been hesitant to receive complaints on cases or to advance towards a binding instrument.

Finally, the focus on the implementation of the UNGPs though the adoption of National Action Plans (NAPs) fails to address some of the core issues, such as the systemic and trans-boundary nature, impact and reach of TNCs activities, and the extra-territorial obligations of the States.

3. The added value of a treaty on TNCs and human rights

In light of this, the creation of a legally binding international instrument on TNCs and human rights is essential to tackle the fundamental gaps outlined above. Such an instrument would represent a step forward with regard to the existing non-binding instruments, which have proved to be insufficient in ensuring effective human rights protection.

A legally binding treaty and the UNGPs are two different things. The UNGPs illustrate how corporations and States should respect, protect and fulfill human rights when they are willing to apply the principles. However, when they do not have the will to apply such principles, there is no way to make sure human rights are enforced. Given this, new binding instruments are required, which should ensure TNCs' accountability in any case of violations, independently of the TNCs or State's will.

The adoption of global binding standards negotiated and agreed on by States in a democratic debate, and not just developed by experts, will also help balance asymmetries in rights and obligations between States and companies. There is no reason why companies should get away with activities that, if carried out by States, would be considered breaches of the obligation to respect human rights. Moreover, binding standards coupled with the establishment of international monitoring and accountability mechanisms that take into account the trans-boundary nature of TNCs' activities, will ensure access to justice in both home and host States for victims of violations.

In addition, legally binding rules that apply the same standards and regulations everywhere will create a level playing field that will benefit both corporations willing to invest abroad and States willing to attract foreign investments.

Finally, a treaty would help to redress existing imbalances of power in the international system created by the rapid expansion of international trade and investment law, that by instruments such as bilateral investment treaties (BITs) gives investors the right to sue States before international panels and provides an architecture of impunity for companies.

4. Recommendations to the Human Rights Council

FIAN International therefore welcomes the initiative of Ecuador and South Africa towards the creation of a binding instrument on TNCs and human rights, expressed in Ecuador's statement during the 24th session of the Council; and calls on the Human Rights Council to support this initiative through the creation of an intergovernmental working group in charge of negotiating and drafting such an instrument that:

- Affirms the applicability of human rights obligations to the operations of TNCs;
- Requires State parties to monitor and regulate the operations of TNCs under their jurisdiction, including when acting outside their national territory;
- Requires State parties to provide access to an effective remedy by any State concerned, including access to justice for abuses committed extraterritorially;
- Provides for an international and accountability mechanism;
- Provides for protection of victims and human rights defenders that seek to prevent, expose or ensure accountability in cases of corporate abuses.